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What compliance looks like: FTC Used Car rule

by Gil Van Over

Since the start of the year, I have started us on a journey to understand what compliance looks like. We have traveled through the Acts (Gramm-Leach-Bliley, FACT, Equal Credit Opportunity Act, Truth in Lending Act, Consumer Leasing Act and Fair Credit Reporting Act). This week we start with the Rules, specifically the FTC Used Car Rule.

Basic Dealer Responsibilities Under Used Car Rule

Car dealers (except those in Maine and Wisconsin) who sell more than five used vehicles in a 12-month period must comply with the FTC Used Car Rule. Dealers in Maine and Wisconsin have similar state regulations they must comply with. Under the Rule, you must post a Buyers Guide before you offer a used vehicle, including demonstrators, for sale. A vehicle is offered for sale when you display it for sale or let a customer inspect it for the purpose of buying it, even if the car is not fully prepared for delivery.

Motorcycles are excluded from the Rule's disclosure requirements.

The Buyers Guide

The Buyers Guide is a disclosure document that must be posted prominently and conspicuously on the vehicle. It gives consumers important warranty information and discloses:

- the vehicle make, model, year and VIN;
- whether the vehicle is being sold "as is" or with a warranty;
- what percentage of the repair costs a dealer will pay under warranty;
- what systems are covered and for what duration;
- the major mechanical and electrical systems on the car, as well as some of the major problems that consumers should look out for; and
- Dealer address and contact information.

Spanish Translation

You are required to post a Spanish translation Buyers Guide on the vehicle before you offer it for sale if you conduct a used car transaction in Spanish.

Optional Signature Line

Obtaining the customer's signature is optional, however, if your guide has a signature line, you are obligated to obtain the customer's signature.

Customer Copy

Your ultimate obligation under the Rule is to give the customer a copy of the Buyers Guide, not getting a signature on a form and filing it in a deal jacket. Make sure your process includes giving the customer a copy of a fully completed Buyers Guide.

Warranty Information

The Buyers Guide has two versions: "As Is-No Warranty;" and "Implied Warranties Only." The one you use will depend upon the state you are conducting business in.

As Is-No Warranty. If you do not wish to offer a warranty and your state law allows it, you must use the "As Is" version and check the box next to the heading "As Is-No Warranty" on the Guide.

Implied Warranties Only. If you do not wish to offer a warranty, but your state requires the disclosure of implied warranties, you must use the "Implied Warranties Only" version and check the box next to the "Implied Warranties Only" heading.

Warranty. If you want to offer a warranty with the vehicle, you must check the box next to the heading "Warranty" and complete that section of the Guide:

- Full or Limited
- Percentage of parts and labor covered
- Systems covered
- Duration covered

Cheat Sheet

There are different disclosures required between the "Balance of Factory Warranty", "Certified Pre-Owned" and a dealer limited warranty (such as 30 day, 1000 miles). Unfortunately, there is not enough room in this column to review your disclosure requirements. We have, however, created a cheat sheet that I will share with you. Just send me an e-mail: gil@gvo3.com.

Potential Penalties

For those dealers who choose not to comply, there are potential penalties which can ultimately reach \$11,000 per violation. There are also rumblings that some states' DMV officials are conducting audits of car dealerships looking for non-compliance (Texas, Tennessee, California).

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